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Attorney for Plaintiff  
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,	)	
	)	
vs.	)	
	)	
HAWAIIAN EXPRESS SERVICE,	)	
INC., a California corporation; H.E.S.	)	
TRANSPORTATION SERVICES,	)	
INC., a California corporation;	)	<b>NOTICE OF APPEAL</b>
CALIFORNIA PACIFIC	)	
CONSOLIDATORS, INC., a	)	
California corporation; JEFFREY P.	)	
GRAHAM and PETER SCHAUL,	)	
California citizens; MARK DILLON	)	
and TERESA NOA, BRIAN	)	
CHRISTENSEN, Hawaii citizens;	)	
FLEMING COMPANIES, INC., an	)	
Oklahoma corporation; C & S	)	
LOGISTICS OF HAWAII, LLC, a	)	
Delaware LLC; C & S WHOLESALE	)	
GROCERS, INC., a Vermont	)	

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAR 14 2007

at 1 o'clock PM 457 MB  
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corporation; )  
 C & S ACQUISITIONS, LLC; )  
 FOODLAND SUPER MARKET, )  
 LIMITED, a Hawaii corporation; )  
 HAWAII TRANSFER COMPANY, )  
 LIMITED, a Hawaii Corporation, )  
 RICHARD COHEN, a New Hampshire )  
 citizen ES3, LLC, a Delaware Limited )  
 Liability Company, MELVIN PONCE, )  
 SONIA PURDY, JUSTIN )  
 FUKUMOTO, AFREDDA )  
 WAIOLAMA, JACQUELINE RIO, )  
 Hawaii citizens; JESSIE GONZALES, )  
 LUIZ RODRIGUES, AL PEREZ and )  
 PATRICK HIRAYAMA , California )  
 citizens; GUIDANCE SOFTWARE, )  
 LLC, a California, LLC; MICHAEL )  
 GURZI, a California citizen; ALIX )  
 PARTNERS, LLC, a Delaware LLC; )  
 DOE INDIVIDUALS 2-350; DOE )  
 PARTNERSHIPS, CORPORATIONS )  
 and OTHER DOE ENTITIES 2-20, )  
 )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

### **NOTICE OF APPEAL**

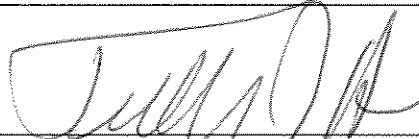
Notice is hereby given that Plaintiff-Appellant Wayne Berry, by and through his undersigned counsel, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the Order Adopting and Modifying the October

25, 2006, and December 4, 2006, Reports of Special Master on the Parties' Motions for Attorneys' Fees and Costs filed on March 2, 2007 (the "Order") by the Honorable Susan Oki Mollway District Judge of the United States District Court for the District of Hawaii.

A copy of the Order appealed from and Appellant Wayne Berry's Circuit Court Rule 3-2, Identification of Parties to the Appeal is attached to his Civil Appeals Docketing Statement as Exhibits "1" and Exhibit "2" respectively and is filed concurrently herewith.

Dated: Honolulu, Hawaii, \_\_\_\_\_

MAR 14 2007

A handwritten signature in dark ink, appearing to read 'Timothy M. Hogan', is written over a horizontal line.

TIMOTHY M. HOGAN  
Attorney for Plaintiff  
WAYNE BERRY